

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

VINCE C. FRAZIER,

Appellant.

DOCKET NUMBER WD74915

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: July 30, 2013

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable Sandra C. Midkiff, Judge

JUDGES

Division Two: Newton, P.J., and Mitchell and Witt, JJ.

CONCURRING.

ATTORNEYS

Chris Koster, Attorney General
Gregory L. Barnes, Assistant Attorney General
Jefferson City, MO

Attorneys for Respondent,

Susan L. Hogan, Appellate Defender
Kansas City, MO

Attorney for Appellant.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI,)
)
Respondent,)
v.) **OPINION FILED:**
) **July 30, 2013**
VINCE C. FRAZIER,)
)
Appellant.)

WD74915

Jackson County

Before Division Two Judges: Thomas H. Newton, Presiding Judge, and Karen King Mitchell and Gary D. Witt, Judges

Vince C. Frazier appeals his conviction, following a jury trial, of first-degree murder pursuant to section 565.020. Frazier was sentenced by the court to life in prison without parole. Frazier argues that the trial court erred in denying his motion for judgment of acquittal, accepting the jury's verdict of first-degree murder, and sentencing him, in that he was suffering from a mental disease or defect resulting in diminished capacity, and as a result, he was unable to deliberate at the time of the murder.

AFFIRMED.

Division Two holds:

- (1) Frazier erroneously characterized the defense of diminished capacity as a special negative defense. With the defense of diminished capacity, the defendant does not have the burden to present evidence or persuade the jury, and the defense does not alter the elements that the State must prove. The defense of diminished capacity does not exclude criminal responsibility, but involves evidence that has the potential to negate the required element of a culpable mental state. It is solely for the jury to determine whether a mental disease or defect prevented a defendant from forming the culpable mental state necessary for a conviction.

- (2) The jury rejected Frazier's defense that he suffered from diminished capacity at the time of the murder, and the evidence was sufficient to show that Frazier deliberated before causing the victim's death. Thus, there was sufficient evidence to support a conviction of first-degree murder.

Opinion by: Karen King Mitchell, Judge

July 30, 2013

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